

REMARKS

In the Office Action mailed 11/05/2002, the Examiner objected to claims 2 and 3 under 37 CFR 1.75(c) as being of improper dependent form for failing to further limit the subject matter of a previous claim. Claims 2 and 3 have been cancelled. The Examiner rejected claim 1 under 35 U.S.C. s. 112, second paragraph. Claim 1 has been amended. The Examiner further rejected claims 1, 9, 10 and 12 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119; rejected claim 11 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119 further in view of Polk United States Patent no. 3,734,154; rejected claim 5 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119 further in view of Murphy et al. United States Patent no. 5,972,196; rejected claim 6 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119 further in view of Black United States Patent no. 3,717,434; rejected claim 7 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119 further in view of Hestehave United States Patent no. 4,548,344; rejected claim 8 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119 further in view of Herr United States Patent no. 5,671,868; and rejected claim 4 under 35 U.S.C. s. 103(a) as unpatentable over Newman United States Patent no. 5,271,893 in view of Sutter et al. United States Patent no. 5,543,119 further in view of DE 3103381 A1. Reconsideration having regard to the following remarks is respectfully requested. It is submitted that the claims patentably distinguish the prior art.

Newman discloses the prior art cassette autoclave which exhibits the problem addressed by the present invention. In particular it utilizes a container 30 for the distilled water which is "adapted to be contained within a relatively small and lightweight benchtop unit" (column 1, lines 60-61). Newman addresses the problem of contaminants building up with time (column 1, lines 46-51) but it addresses that problem by focussing on the design of the pressure chamber in the form of a cassette. The possibility of making

the distilled water container separable from the unit and manufactured from a material to permit sterilization of the container is neither disclosed nor suggested by Newman. Thus Newman teaches away from the present invention by focussing on the cassette design to solve buildup of contaminants.

Sutter discloses a cassette for sterilizing dental instruments which likewise exhibits the problem addressed by the present invention. It uses a container for distilled water which is fixed in the housing and accessed by filling opening 6 (column 1, lines 41-43). The container 7 in Sutter is not a container for distilled water, but rather is an oil reservoir (column 5, lines 31-32 and 48-50) from which lubricating oil is pumped to lubricate instruments which have moving parts (column 6, lines 46-51). The possibility of making the distilled water container separable from the unit and manufactured from a material to permit sterilization of the container is neither disclosed nor suggested by Sutter. Sutter does not address the problem of buildup of toxins in the distilled water reservoir. Thus Sutter does not disclose or suggest the present invention and one skilled in the art would not be led to the present invention by combining Newman and Sutter. It is submitted therefore that the person skilled in the art would not be led without some invention to the presently claimed invention.

The Examiner objected to the phrase in claim 1 "manufactured from a substance which can be subjected to sufficiently high temperatures to destroy endotoxins" as indefinite. That phrase has been amended. It is respectfully submitted that one skilled in the art would know precisely which substances the reservoir is manufactured from as the person skilled in the art would know the temperatures required to be applied over what period of time to destroy endotoxins and would also know the substances which can withstand such temperatures for such period of time without damage.

It is submitted therefore that the present claims are allowable, and issuance of a Notice of Allowability is respectfully requested.

Respectfully submitted,

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VERSION WITH MARKINGS TO SHOW CHANGES MADECLAIMS

Claim 1 is amended as follows:

1. (Once Amended) An apparatus for reducing outbreaks of aseptic inflammations of the eye resulting from eye surgery comprising a sterilizer for sterilizing medical instruments with steam comprising a housing containing a steam generator supplied by a dispensing pump and a sterilization container for containing said medical instruments, and further comprising a reservoir of distilled water which holds and supplies distilled water to be boiled for the sterilization, wherein said reservoir is separable from said housing and manufactured from a substance which can be subjected to sufficiently high temperatures for a sufficient period of time to destroy endotoxins without damaging said reservoir.

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Bruce M. Green May 5, 2003